

CIVIL DOCKET  
UNITED STATES DISTRICT COURT

DAUGHERTY  
Jury demand date: 12-9-71 - plaintiff

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS					
<p>↗ American Magnesium Company, a Delaware corporation</p> <p>vs</p> <p>Allendale Mutual Insurance Company, a foreign insurance company</p> <p>↗ <u>ADDITIONAL PARTIES PLAINTIFF:</u> Snyder Magnesium Company, a Delaware Corp- oration, NATIONAL MAGNESIUM CORPORATION, a Texas Corporation, BOMAG, INC., a Texas Corporation, and MISSOURI, KANSAS and OKLAHOMA LINES, INC., an Oklahoma Corp- oration</p>		<p>For plaintiff:</p> <p>Floyd L. Walker &amp; Associates, Inc. 405 Mayo Building Tulsa, Oklahoma 74103 (584-4136)</p> <p>For defendant:</p> <p>Richard T. Sonberg <del>Houston, Klein &amp; Davidson</del> <del>404 South Boston</del> Thompson Bldg. Tulsa, Oklahoma 74103 (583-2131) 584-4421</p> <p>Lawrence Zelle Robbins, Davis &amp; Lyons 333 South Fifth Minneapolis, Minnesota 55402</p>					
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.		
J.S. 5 mailed 1-1-72	Clerk	12-9-71	Sonberg	15	00		
		12-16-71	C.D.No.27			1500	
J.S. 6 mailed 12-1-73	Marshal						
Basis of Action: Recovery of damages sustained as a re- sult of failure to comply with ins. coverage	Docket fee Witness fees						
Action arose at:	Depositions						

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-9-71	Petition for removal from District Court of Tulsa County, Okla., filed. m	
12-9-71	Bond on removal in the amt. of \$500.00, filed. Surety, Mid-Continent Casualty Company. m	
12-9-71	Notice of removal, filed. m	
12-9-71	Proof of Service by Deft.'s Atty, R. Sonberg, filed. v (Served Pltf. and Pltf.'s Atty. and Tulsa County Court Clerk, D. Austin.)	
12-9-71	Certificate from Don Austin stating receipt of Petition of Removal, filed. v	
12-17-71	Motion of the Plaintiff to suppress Deposition and Alternative motion for Extension of Time, filed. v	
12-17-71	Motion to Quash Subpoena Duces Tecum, filed. v	
12-17-71	Brief of Plaintiff in Support of Motion to Suppress Deposition and Motion to Quash, filed. v	
12-17-71	Notice to take deposition of Plaintiff, American Magnesium Corp., thru its President, Roger M. Wheeler, on 12-21-71, in Tulsa, Okla., at 10:00A.M., filed. v	
12-21-71	Order Denying Motion to Suppress or Delay Deposition and Granting Order to Suppress Production of Documents, filed. (FD-J) v	
12-20-71	Hearing on Motions held. The Motion to Suppress and Alternative Motion for extension of time is overruled. The Motion to Quash Subpoena Duces Tecum - the Court directs deft to proceed under Rule 34 re. documents. Counsel for Deft to prepare formal order by 12-21. (FD-J)r	<i>copies mailed to me but he was here with it</i>
12-22-71	Return on Civil Subpoena, filed. Executed on Dec. 20, 1971 by trying to serve Roger M. Wheeler but said witness refused to accept said subpoena and fee, filed. v	
12-27-71	Defts' Application for extension of time to plead or answer, filed. r	
12-27-71	Defts' Memorandum of authorities supporting defts application for extension of time to plead or answer, filed. r	
12-27-71	Order granting defts an extension of time until Jan 14, 1972 in which to plead or answer, filed. r (copies mailed to attys)	
1-14-72	Defendant's motion to dismiss on the grounds of failure to state a claim and failure to join a party under Rule 19, filed. ds	
1-14-72	Defendant's memorandum brief, filed. ds	
1-20-72	Copy of letter dated 1-19-72 from J.D. to Floyd Walker, requesting that pltf. respond to Motion to dismiss and do so with supporting within 15 days from this date. Filed. r	
1-26-72	Pltf's Response to Deft's Motion to Dismiss because of failure to state a claim and failure to join a party under Rule 19, filed. r	
1-26-72	Pltf's Memorandum Brief in support of its Response to Deft's Motion to Dismiss for failure to state a claim and failure to join a party under Rule 19, filed. r	
1-29-72	MINUTE ORDER: Ordered that Deft is granted until 2-14-72 to file Reply Brief to its Motion to Dismiss. (FD-J)r (all attys notified)	
2-4-72	Deposition of ROGER MILTON WHEELER, on behalf of the Deft., taken on 12-21-72, before Frank L. Peterson, with fees of \$102.00, filed. v	
2-8-72	Order filed, that Deft's Motion to Dismiss is denied without prejudice, Filed. (FD-J)r (Copies Mailed to all attys)	
2-17-72	Defts' Answer, filed. r	
2-23-72	Pltf's Request for permission to file amended complaint, filed. r	
3-2-72	M.O. Ordered that Pltfs' request for permission to file Amended Complaint is granted. 10 days (3-12-72) allowed in which to file same. Deft. to answer Amended Complaint within 10 days thereafter. (FD-J) (attys Notified) r	
3-16-72	Pltfs' Amended Complaint, filed. r	
3-27-72	Defts' Request for Extens. of time to answer amended complaint, filed. r	

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-27-72	Defts' Memorandum of authorities in sup. of req. for ext of time, filed.	
3-30-72	Case set for Pre-Trial Hearing on Wed., 4/19/72, at 11:30 a.m. (FD-J)r	
3-31-72	Order filed, granting defts ext. of 10 days from 3-26-72 to answer the amended complaint, filed. (FD-J)r (copies to attys)	
4-5-72	Deft's Answer to Amended Complaint, filed. r	
4-6-72	Plaintiff's Request for Admissions under Rule 36, filed. v	
4-6-72	Interrogatories propounded to Deft. under Rule 33 and Rule 26(4), filed.v	
4-19-72	Pre-Trial Held. Pltf represented by Floyd Walker; Deft represented by Richard Sonberg and Lawrence Zelle. Deft to file brief in 60 days; Pltf to answer within 15 days thereafter. Deft to file Motion (R.P.I.) Pltf to respond to said motion. Pltf is allowed to amend complaint. Pltf to prepare Pre-trial Order. Case to be set on Jury Assingment in late summer. (Sept is definitely out) (FD-J)r	
4-20-72	Mo. of def. to require joinder of add. parties pltf., filed. rm	
4-20-72	Def's memo. brief in support of mo. to require add. parties pltf., filed.rm	
4-25-72	Amendment to Paragraph I of Amended Complaint, filed. v	
5-2-72	MINUTE ORDER: Defts Motion to Require Joinder of Additional Parties Pltf is confessed and satisfied by Pltfs filing herein on 4-25-72 its Amend to Paragraph 1 of Amended Complaint in which additional Parties Pltf have been added. (FD-J)r (attys notified by letter)	
6-6-72	PRE-TRIAL ORDER, FILED. (FD-J)r	
6-19-72	Letter from deft, requesting an extension of time to file brief, filedr. r	
6-19-72	MINUTE ORDER: Deft granted extension until 7-5-72 to file brief, ordered at P. T. Conference, (FD-J)r (attys notified by letter)	
7-5-72	Deft.'s Briefin Accordance with Pre-Trail Order, filed. v	
8-22-72	Plaintiff's response to defendant's brief, filed. ds	
8-23-72	Ordered by the Court that deft. is granted 5 days in which to file a new answer to pltf's amended complaint filed 3-16-72 as the same has been amended by amendment to Paragraph I of amended complaint filed 4-25-72, or adopt its amended answer filed 4-5-72 as answering the amended complaint as amended. (FD-J)hm (letter written)	
9-5-72	Pltf's Amendments to deft's Amended Answer & Answer to 1st Cause of Action, filed. r	
9-15-72	Interrogatories propounded to plaintiff under Rule 33 and Rule 26(4) filed. ds	
9-15-72	Request for production of documents and entry upon land for inspection and other purposes under Rule 34, filed. ds	
9-19-72	Plaintiff's answers to defendant's interrogatories, filed. ds	
9-25-72	Pltf's supplemental answers to deft's interrogatories, filed. hm	
10-3-72	Deposition of Donald E. Spink, on behalf of def., taken 9/7/72, filed.rm (Fee \$54 pd. by def.)	
10-3-72	Deposition of Larry Gene Doyle, on behalf of def., taken 9.7/72, filed.rm (Fee \$28.80 pd. by def.)	
10-3-72	Deposition of Roger M. Wheeler, on behalf of def., taken 9/6/72, filed.rm (Fee \$66 pd. by def.)	
11-2-72	Case set for Pre-Trials on Thurs. 11-30-72 at 1:30 P.M. (FD-J)r	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-13-72	Pre-Trial setting changed from 11-30-72 to Friday, 12-1-72. (FD-J)r (by agreement by counsel)	② 11:45 A.M.
11-16-72	Pltf's Request for admissions numbered 11 to 19, inclusive, filed. r	
12-1-72	Pre-Trial held. Pltf rep by Floyd Walker; Deft rep by Lawrence Zelle. Statements made. Pltf and Deft were directed to file requested instructions by Jan. 15, 1972. Pltf to file Pre-Trial Order. Case set on JURY LIST (sometime in Feb) (FD-J)r	
1-12-73	Case set for jury trial 2-5-73 at 9:30 a.m. (FD-J)hm	
1-16-73	Defendant's requested jury instructions, filed. hm	
1-18-73	Pre-trial order, filed. (FD-J)hm	
1-30-73	Motl. of pltf. for continuance of trial setting, w/brief in support thereof, filed. rm	
1-31-73	Order granting that case be stricken from jury docket of 2/5/73, to be reset at later date. (FD-J)rm - copies mailed	
2-8-73	Deposition of William S. Staff on behalf of pltf., filed. (Fees: \$98.40 pd. by pltf.)hm	
2-12-73	Deposition of William S. Staff, filed. jj	
2-12-73	Letter dated 2-7-73 from Mr. Zelle re: cont. of trial, filed. r	
8-7-73	Case set for Jury Trials on Tues. 10-23-73 at 9:30 A.M. (FD-J)r	
9-28-73	Notice of Deposition, filed. American Magn. Co. will take depo. of Ralph Hunter in Michigan. v	
10-1-73	Notice of deposition, filed. Pltf. will take dep. of Ralph Hunter in Michigan on 10/10/73. rm	
10-4-73	Deposition of James E. Manlove, filed. (Rec'd in unmarked envelope)g	
10-19-73	Deposition of Ralph Hunter, filed.	
10-23-73	Case called for jury trial. Parties present & represented, and announce settlement. Settlement papers to be submitted to court this week. (FD-J)rm	
11-19-73	Stipulation for dismissal w/prejudice, filed. rm <i>for 11/19/73</i>	
11-26-73	Order of dismissal w/prejudice, filed and entered. (FD-J)rm - copies mailed	